ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

ವಿಧಾನ ಪರಿಷತ್ತಿನ ಸದಸ್ಯರ ಹೆಸರು : ಶ್ರೀ ಸಿ.ಎಂ. ಇಬ್ರಾಹಿಂ
ಚುಕ್ಕೆ ಗುರುತಿನ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ: : 2088
ಉತ್ತರಿಸುವ ದಿನಾಂಕ :24.03.2021
ಉತ್ತರಿಸುವ ಸಚಿವರು : ಕಂದಾಯ ಸಚಿವರು

ಕ್ರಂ ಸಂಖ್ಯೆ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
ಅ)	ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ನಾಗವಾರ ಗ್ರಾಮದಲ್ಲಿ ವೈಯಾಲಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಕ್ಕೆ ಸರ್ಕಾರದಿಂದ ಅಧಿಸೂಚಿತ 176-05 ಎ/ಗುಂ ಜಮೀನುಗಳಲ್ಲಿ 165-30 ಎ/ಗುಂ ಜಮೀನುಗಳನ್ನು ಸುಬರ್ದು ನೀಡಿ ಅದರಲ್ಲಿ 40-39 ಎ/ಗುಂ ಜಮೀನುಗಳನ್ನು ಯಾವ ಕಾರಣಕ್ಕೆ ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲಾಗಿದೆ; ಉಳಿದ ಜಮೀನುಗಳನ್ನು ಕೈಬಿಡದೇ ಇರಲು ಕಾರಣವೇನು:	ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 134 ಭೂಸ್ವಾಬೆ 2007, ದಿನಾಂಕ: 16.04.2010 ರಂತೆ ಒಟ್ಟು 40-39 ಎ/ಗುಂ ಜಮೀನುಗಳನ್ನು ಕೈಬಿಟ್ಟು ಸದರಿ (14 ಜನ) ಭೂಮಾಲೀಕರುಗಳಿಗೆ ಸುಬರ್ದು ನೀಡಲಾಗಿರುತ್ತದೆ. (ಆದೇಶದ ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ).
ಆ)	ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ SLP s (C) Nos. 11550-57 of 1991, Civil Appeal Nos. 2086-2087 of 2004, Civil Appeal No. 1930 of 2012ರ ಪ್ರಕರಣಗಳಲ್ಲಿ ಭೂಸ್ವಾಧೀನಕ್ಕೆ ಅಧಿಸೂಚಿತ ಜಮೀನುಗಳನ್ನು ರದ್ದುಪಡಿಸಿ, ಭೂಮಾಲೀಕರಿಗೆ ಹಿಂದಿರುಗಿಸುವಂತೆ ನೀಡಿದ ತೀರ್ಪು/ಆದೇಶಗಳಂತೆ ವೈಯಾಲಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ	W.P.No: 57922-57925/2013, 32941-953/2013, 51554-51555/2013, 32482-85/2013, 31832/2013, 57972-58001/2013ರ ಪ್ರಕರಣಗಳು ದಾಖಲಾಗಿದ್ದು, ಈ ಪೈಕಿ 57922-57925/2013ರ ಪ್ರಕರಣವು ಚಾಲ್ತಿಯಲ್ಲಿದ್ದು, ಉಳಿದೆಲ್ಲಾ ಪ್ರಕರಣಗಳು ಇತ್ಯರ್ಥವಾಗಿರುತ್ತದೆ. ಕಾಲ ಕಾಲಕ್ಕೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಗಳು ನೀಡಿದ ತೀರ್ಪು/ಆದೇಶಗಳನ್ನು ಪಾಲಿಸಲಾಗುತ್ತಿದೆ. ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ SLP's (C) Nos. 11550-57 of 1991, Civil Appeal Nos. 2086-2087 of 2004, Civil Appeal Nos.1930 of 2012 ರ ಪ್ರಕರಣಗಳಲ್ಲಿ ಆದೇಶವನ್ನು ಪಾಲಿಸಿ, ಸರ್ಕಾರದ

	ಸಹಕಾರ ಸಂಘದ ಪ್ರಕರಣದಲ್ಲೂ ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಂಡ ಎಲ್ಲಾ ಭೂ ಮಾಲೀಕರಿಗೆ ಜಮೀನುಗಳನ್ನು ಹಿಂದಿರುಗಿಸುವ ಕ್ರಮವನ್ನು ಸರ್ಕಾರ ಪಾಲಿಸಿದೆಯೇ; ಹೌದಾದಲ್ಲಿ, ವಿವರ ಒದಗಿಸುವುದು; ಇಲ್ಲದಿದ್ದಲ್ಲಿ, ಕಾರಣವೇನು?	ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 134 ಭೂಸ್ವಾಬೆ 2007, ದಿನಾಂಕ: 16.04.2010 ರಂತೆ ಒಟ್ಟು 40-39 ಎ/ಗುಂಟೆ ಜಮೀನುಗಳನ್ನು ಕೈಬಿಟ್ಟು ಸದರಿ (14 ಜನ) ಭೂಮಾಲೀಕರುಗಳಿಗೆ ಹಿಂದಿರುಗಿಸಲಾಗಿರುತ್ತದೆ. (ಅನುಬಂಧ-1 ಲಗತ್ತಿಸಿದೆ).

ಸಂಖ್ಯೆ: ಕಂಇ 32 ಭೂಸ್ವಾಬೆ 2021

(ಆರ್.ಅಶೋಕ್)
ಕಂದಾಯ ಸಚಿವರು

(50)

31

(3)

ANNEXURE ... 11

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ನಡವಳಿಗಳು

ವಿಷಯ: ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಕಸಬಾ ಹೋಬಳಿ ನಾಗಾವರ ಗ್ರಾಮದ ವಿವಿಧ ಸರ್ವೆ ನಂಬರ್‌ಗಳಲ್ಲಿ ವೈಯ್ಯಾಳಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಕ್ಕೆ ಸ್ವಾಧೀನಪಡಿಸಿದ ಜಮೀನುಗಳನ್ನು ಭೂಮಾಲೀಕರಿಗೆ ಹಿಂದಿರುಗಿಸಿ ಸುಪರ್ದು ಪತ್ರ ನೀಡಿರುವುದನ್ನು ರದ್ದುಪಡಿಸುವ ಬಗ್ಗೆ.

ಓದಲಾಗಿದೆ:-

1) ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ ಕಂಇ 134 ಭೂಸ್ವಾಬೆ 2007 ದಿನಾಂಕ 5.2.2009.
2) ಮಾನ್ಯ ಕಂದಾಯ ಸಚಿವರ ಟಿಪ್ಪಣಿ ಸಂಖ್ಯೆ ಕಂ.ಸ/170/09 ದಿನಾಂಕ 5.3.2009.
3) ಮಾನ್ಯ ಕಂದಾಯ ಸಚಿವರ ಅಪ್ತ ಕಾರ್ಯದರ್ಶಿಯವರ ಟಿಪ್ಪಣಿ ಸಂಖ್ಯೆ ಕಂ.ಸ./ಅಕಾ/ಗೃಹಕಛೇರಿ/226/2009 ದಿನಾಂಕ 28.3.2009.
4) ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ ಕಂ ಇ 134 ಭೂಸ್ವಾಬೆ 2007 ದಿನಾಂಕ 4.4.2009.
5) ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು ಇವರ ಪತ್ರ ಸಂಖ್ಯೆ ಎಲ್‌ಎಕ್ಯೂ/ಸಿಆರ್-117/2009-10 ದಿನಾಂಕ 21.01.2010
6) ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ 423/2010 ರಲ್ಲಿ ದಿನಾಂಕ 05.04.2010 ರಂದು ನೀಡಿರುವ ಆದೇಶ.

ಪ್ರಸ್ತಾವನೆ:

ಮೇಲೆ ಕ್ರಮ ಸಂಖ್ಯೆ (1) ರಲ್ಲಿ ಓದಲಾದ ಸರ್ಕಾರದ ಪತ್ರದಲ್ಲಿ ವೈಯ್ಯಾಳಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಕ್ಕೆ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ ನಾಗವಾರ ಗ್ರಾಮದ ವಿವಿಧ ಸರ್ವೆ ನಂಬರ್‌ಗಳಲ್ಲಿ ಸ್ವಾಧೀನಪಡಿಸಿದ ಜಮೀನುಗಳ ಪೈಕಿ ಸರ್ವೆ ನಂಬರ್ 52/1, 78/6, 21 ರಿಂದ 25, 33 ರಿಂದ 51, 76 ರಿಂದ 88 ಮತ್ತು 26/2 ರ ಜಮೀನುಗಳನ್ನು ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಹೆಚ್.ಎಂ.ಟಿ. ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ವಿರುದ್ಧ ಸೈಯದ್ ಖಾದರ್ ಪ್ರಕರಣ (ಐ.ಎಲ್.ಆರ್ 1995 ಕರ್ನಾಟಕ ಪುಟ 1962) ಹಾಗೂ ಸಿವಿಲ್ ಅಪೀಲ್ ಸಂಖ್ಯೆ 2086-2087/2004 ರಲ್ಲಿ ದಿನಾಂಕ 02.02.2007 ರಂದು ನೀಡಿರುವ ಆದೇಶದ ಹಿನ್ನಲೆಯಲ್ಲಿ (ಐ.ಎಲ್.ಆರ್ 2007 ಕರ್ನಾಟಕ 1810) ಕಾನೂನು ಇಲಾಖೆಯ ಅಭಿಪ್ರಾಯ ಪಡೆದು ಭೂಮಾಲೀಕರುಗಳಿಗೆ ಹಿಂದಿರುಗಿಸಲು ಅನುಮತಿ ನೀಡಲಾಗಿರುತ್ತದೆ.

ಮೇಲೆ ಕ್ರಮ ಸಂಖ್ಯೆ (2) ಮತ್ತು (3) ರಲ್ಲಿ ಓದಲಾದ ಟಿಪ್ಪಣಿಗಳಲ್ಲಿ ಮಾನ್ಯ ಕಂದಾಯ ಸಚಿವರು ನಾಗವಾರ ಗ್ರಾಮದ ಜಮೀನುಗಳನ್ನು ವೈಯ್ಯಾಳಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ಪರವಾಗಿ ಸ್ವಾಧೀನಪಡಿಸಿ, ಸುಪರ್ದಿಗೆ ನೀಡಲಾಗಿದ್ದರೂ, ಕೆಲವು ಅಧಿಕಾರಿಗಳು ಹಿಂದಿನ ಭೂಮಾಲೀಕರ ಹೆಸರಿಗೆ ಅಕ್ರಮವಾಗಿ ಜಮೀನುಗಳ ಖಾತೆ ಮತ್ತು ಪಹಣಿಗಳನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡುತ್ತಿರುವುದು ಗಮನಕ್ಕೆ ಬಂದಿದೆಯೆಂದು, ಈ ಬಗ್ಗೆ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಕರಣಗಳು ಇನ್ನೂ ಬಾಕಿಯಿದ್ದು, ಅದು ಇತ್ಯರ್ಥವಾಗುವವರೆಗೆ ದಿನಾಂಕ 05.02.2009 ರ ಸರ್ಕಾರದ ಪತ್ರದಲ್ಲಿ ಜಮೀನುಗಳನ್ನು ಭೂಮಾಲೀಕರುಗಳಿಗೆ ಹಿಂದಿರುಗಿಸಲು ನೀಡಿರುವ ಆದೇಶವನ್ನು ತಡೆಹಿಡಿಯುವಂತೆ ಸೂಚನೆ ನೀಡಿರುತ್ತಾರೆ.

ಅದರಂತೆ ಕ್ರಮ ಸಂಖ್ಯೆ (4) ರಲ್ಲಿ ಓದಲಾದ ಸರ್ಕಾರದ ಪತ್ರದಲ್ಲಿ ಸರ್ಕಾರದಿಂದ ನೀಡಲಾಗುವ ಮುಂದಿನ ಸೂಚನೆಯನ್ನು ಅನುಸರಿಸಿ ದಿನಾಂಕ 05.02.2009 ರ ಪತ್ರ ಮೇಲೆ ಕ್ರಮ ಜರುಗಿಸುವಂತೆ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳಿಗೆ ಸೂಚಿಸಲಾಗಿರುತ್ತದೆ. ಇದಲ್ಲದೆ ವೈಯ್ಯಾಳಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದವರು ಸರ್ಕಾರಕ್ಕೆ ಮನವಿ ಸಲ್ಲಿಸಿ ವಿ.ಚಂದ್ರಪ್ಪನವರ ಪ್ರಕರಣದಲ್ಲಿ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶ ಅರ್ಜಿದಾರರ ಜಮೀನುಗಳಿಗೆ ಮಾತ್ರ ಅನ್ವಯಿಸುತ್ತದೆಂದು, ನಾಗವಾರ ಗ್ರಾಮದ ಜಮೀನುಗಳ ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆ ರದ್ದುಗೊಂಡಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ತಪ್ಪಾಗಿ ಅರ್ಥೈಸಲಾಗಿದೆಯೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಇದಲ್ಲದೆ ಸಂಘದಿಂದ ನಿವೇಶನ ಹಂಚಿಕೆ ಪಡೆದ ಕೆಲವು ಸದಸ್ಯರುಗಳು ಸಹಾ ಅರ್ಜಿ ಸಲ್ಲಿಸಿ ತಾವು ನಿವೇಶನದ ಖಾತೆ ಮಾಡಿಸಿಕೊಂಡು ನಂತರ ನಕ್ಷೆ ಮಂಜೂರಾತಿ ಪಡೆದು ಮನೆಗಳನ್ನು ಕಟ್ಟಿಕೊಂಡಿರುವುದಾಗಿಯೂ, ಈಗ ಹಿಂದಿನ ಭೂಮಾಲೀಕರಿಗೆ ಜಮೀನುಗಳನ್ನು ಹಿಂದಿರುಗಿಸಲು ಅವಕಾಶವಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ಮೇಲೆ ತಿಳಿಸಿದ ಸನ್ನಿವೇಶದಲ್ಲಿ ಈ ಪ್ರಕರಣದಲ್ಲಿ ಕೈಗೊಂಡಿರುವ ಕ್ರಮ ಕಾನೂನು ರೀತ್ಯಾ ಇರುವ ಬಗ್ಗೆ ಮರು ಪರಿಶೀಲಿಸಿ ಅಭಿಪ್ರಾಯ ನೀಡುವಂತೆ ಕಾನೂನು ಇಲಾಖೆಯನ್ನು ಕೋರಲಾಗಿತ್ತು. ಈ ವಿಷಯದಲ್ಲಿ ಸಮಗ್ರ ಹಾಗೂ ಸ್ಪಷ್ಟ ಅಭಿಪ್ರಾಯ ನೀಡಲು ಕೆಲವೊಂದು ಹೆಚ್ಚುವರಿ ಮಾಹಿತಿ ನೀಡುವಂತೆ ತಿಳಿಸಿರುತ್ತದೆ. ಈ ವಿಷಯ ಪರಿಶೀಲನೆಯಲ್ಲಿರುತ್ತದೆ.

ಈ ಮಧ್ಯೆ ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಯಿಂದ ಸುಪರ್ದು ಪತ್ರ ಪಡೆದಿರುವ ಕೆಲವು ಭೂಮಾಲೀಕರುಗಳು, ಮಾನ್ಯ ಕಂದಾಯ ಸಚಿವರ ದಿನಾಂಕ 05.03.2009 ರ ಟಿಪ್ಪಣಿ ಹಾಗೂ ಸರ್ಕಾರದ ದಿನಾಂಕ 04.04.2010 ರ ಪತ್ರಗಳನ್ನು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಈ ಕೆಳಕಂಡ ರಿಟ್ ಅರ್ಜಿಗಳಲ್ಲಿ ಪ್ರಶ್ನಿಸಿ ಸುಪರ್ದು ಪತ್ರ ನೀಡಿರುವ ಜಮೀನುಗಳ ಖಾತೆಗಳನ್ನು ತಮ್ಮ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಲು ತಹಶೀಲ್ದಾರ್‌ರವರಿಗೆ ನಿರ್ದೇಶನ ನೀಡುವಂತೆ ಕೋರಿರುತ್ತಾರೆ.

1) ಎ.ನಂಜಪ್ಪ – ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ 423/2010
2) ಪಿ.ಕೃಷ್ಣಮೂರ್ತಿ ಹಾಗೂ ಇತರರು – ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ 7077–7114/2010

ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಶ್ರೀ ಎ. ನಂಜಪ್ಪ ಇವರ ಪ್ರಕರಣದಲ್ಲಿ ದಿನಾಂಕ 05.04.2010 ರಂದು ನೀಡಿರುವ ಆದೇಶದಲ್ಲಿ ಪ್ರತಿವಾದಿಗಳಿಂದ ಹೊರಡಿಸಲಾಗಿರುವ ಆದೇಶಗಳಲ್ಲಿ ತಪ್ಪುಗಳೇನಾದರೂ ಆಗಿದ್ದಲ್ಲಿ ಅವುಗಳನ್ನು ಕಾನೂನು ರೀತ್ಯಾ ಸರಿಪಡಿಸಿಕೊಳ್ಳಬಹುದೆಂದು ಅವಕಾಶ ನೀಡಿರುತ್ತದೆ.

ಮೇಲೆ ತಿಳಿಸಿದ ಎರಡು ರಿಟ್ ಅರ್ಜಿಗಳಲ್ಲಿ ಸರ್ಕಾರದ ಆದೇಶವನ್ನು ಪ್ರಶ್ನಿಸಿರುವ ಭೂಮಾಲೀಕರುಗಳಲ್ಲಿ ಕೆಲವರು ಭೂಸ್ವಾಧೀನವನ್ನು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಶ್ನಿಸಿಲ್ಲದೆ ಇರುವುದು ಹಾಗೂ ಅವರುಗಳ ಜಮೀನನ್ನು ಹಿಂದಿರುಗಿಸುವ ಬಗ್ಗೆ ನ್ಯಾಯಾಲಯದ ಆದೇಶ ಇಲ್ಲದಿರುವುದು ಕಂಡುಬಂದಿದೆ. ಅಲ್ಲದೆ ಕೆಲವು ಭೂಮಾಲೀಕರುಗಳು ಈಗ ಜಮೀನಿನ ಹಕ್ಕುದಾರಿಕೆ ಹೊಂದಿಲ್ಲದೆ ಇದ್ದು, ಅವರಿಂದ ಜಮೀನು ಖರೀದಿಸಿರುವ ಇತರೆ ಕೆಲವರು ಜಮೀನು ಹಿಂತಿರುಗಿಸಿ ಖಾತಾ ವರ್ಗಾವಣೆ ಮಾಡುವಂತೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಈ ಪ್ರಕರಣದಲ್ಲಿ ಕಾನೂನು ಇಲಾಖೆಯಿಂದ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಕುರಿತು ಮರು ಪರಿಶೀಲನೆ ನಡೆಸುತ್ತಿರುವ ಹಿನ್ನಲೆಯಲ್ಲಿ ಹಾಗೂ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ 423/2010 ರಲ್ಲಿ ನೀಡಿರುವ ಆದೇಶದಲ್ಲಿ ಭೂಸ್ವಾಧೀನ ಹಿಂದಿರುಗಿಸುವಲ್ಲಿ ಆಗಿರುವ ತಪ್ಪುಗಳನ್ನು ಸರಿಪಡಿಸಲು ಅವಕಾಶ ನೀಡಿ "However if there are certain mistakes in the orders passed by the respondents, they are at liberty to correct the same in accordance with law" ಎಂದು ಆದೇಶಿಸಿರುವುದರಿಂದ, ಈ ಬಗ್ಗೆ ಸಮಗ್ರವಾಗಿ ಪರಿಶೀಲಿಸಿ ಕಾನೂನು ರೀತ್ಯಾ ಕ್ರಮ ಕೈಗೊಳ್ಳುವುದನ್ನು ಬಾಕಿಯಿಟ್ಟು ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ಕಛೇರಿಯಿಂದ ನೀಡಲಾಗಿರುವ ಸುಪರ್ದು ಪತ್ರಗಳನ್ನು ರದ್ದುಗೊಳಿಸಲು ಸರ್ಕಾರ ತೀರ್ಮಾನಿಸಿದೆ. ಅದರಂತೆ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

<u>ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 134 ಭೂಸ್ವಾಧೆ 2007 (ಭಾಗ) ಬೆಂಗಳೂರು ದಿನಾಂಕ 16.04.2010</u>

ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಕಸಬಾ ಹೋಬಳಿ ನಾಗವಾರ ಗ್ರಾಮದಲ್ಲಿ ವೈಯ್ಯಾಲಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಕ್ಕೆ ಸ್ವಾಧೀನಪಡಿಸಿರುವ ಜಮೀನುಗಳ ಪೈಕಿ ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು, ಇವರ ಕಛೇರಿಯಿಂದ ಈ ಕೆಳಕಂಡ ಆದೇಶಗಳ ಮೂಲಕ ಜಮೀನುಗಳನ್ನು ಭೂಮಾಲೀಕರುಗಳಿಗೆ ಹಿಂದಿರುಗಿಸಲು ನೀಡಲಾಗಿರುವ ಸುಪರ್ದು ಪತ್ರಗಳನ್ನು ಸರ್ಕಾರವು ಮುಂದಿನ ಪರಿಶೀಲನೆಯನ್ನು ಬಾಕಿಯಿಟ್ಟು ಈ ಮೂಲಕ ರದ್ದುಪಡಿಸಿದೆ.

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ಕ್ರಮ ಸಂಖ್ಯೆ	ಪ್ರಪರ್ಥ ಪತ್ರ ಸಂಖ್ಯೆ ಮತ್ತು ದಿನಾಂಕ	ಭೂಮಾಲೀಕರ ಹೆಸರು
1)	ಎಲ್.ಎ.ಸಿ. 456/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ದೇಶಿಕಾ ಆಚಾರ್ ಬಿನ್ ಲೇಟ್ ಹನುಮಂತಾಚಾರ್ ಮತ್ತು ಇತರರು
2)	ಎಲ್.ಎ.ಸಿ. 445/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಕೃಷ್ಣಪ್ಪ ಬಿನ್ ಲೇಟ್ ರಾಮಯ್ಯ ಮತ್ತು ಇತರರು
3)	ಎಲ್.ಎ.ಸಿ. 458/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಆನಂದ ಮೂರ್ತಿ ಬಿನ್ ಲೇಟ್ ಕಾಳಪ್ಪ ಮತ್ತು ಇತರರು
4)	ಎಲ್.ಎ.ಸಿ. 409/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀಮತಿ ವೆಂಕಟಮ್ಮ ಕೋಂ ಕೃಷ್ಣಪ್ಪ ಬಿನ್ ಲೇಟ್ ಅಪ್ಪಯಪ್ಪ ಮತ್ತು ಇತರರು
5)	ಎಲ್.ಎ.ಸಿ. 398/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀಮತಿ ರಾಜೇಶ್ವರಮ್ಮ ಕೋಂ ಲೇಟ್ ರಾಜಣ್ಣ ಬಿನ್ ಲೇಟ್ ಡಿ. ಚಂದ್ರಪ್ಪ ಮತ್ತು ಇತರರು
6)	ಎಲ್.ಎ.ಸಿ. 448/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಮುನಿರತ್ನಂ ಬಿನ್ ಲೇಟ್ ಚಿನ್ನಣ್ಣ ಮತ್ತು ಇತರರು
7)	ಎಲ್.ಎ.ಸಿ. 447/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಕೆ. ಆಂಜನಪ್ಪ ಬಿನ್ ಕುಪ್ಪಣ್ಣ ಮತ್ತು ಇತರರು
8)	ಎಲ್.ಎ.ಸಿ. 407/85-86, ದಿನಾಂಕ 25.03.2009.	ಶ್ರೀಮತಿ ಮೇರಿ ಜಯಶ್ರೀ ಕೋಂ ಅಂತೋನಿಸ್ವಾಮಿ ಮತ್ತು ಇತರರು
9)	ಎಲ್.ಎ.ಸಿ. 441/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಲೇಟ್ ದೊಡ್ಡವೀರಪ್ಪನ ಮೊಮ್ಮಕ್ಕಳಾದ ಮೈಕಂಠೇಶ್ವರ ಅಲಿಯಾಸ್ ಮಣಿಕಂಠೇಶ್ವರ ಮತ್ತು ಇತರರು
10)	ಎಲ್.ಎ.ಸಿ. 404/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀಮತಿ ವಲಿಯಮ್ಮ ಕೋಂ ಲೇಟ್ ನಾರಾಯಣಸ್ವಾಮಿ ಮತ್ತು ಇತರರು
11)	ಎಲ್.ಎ.ಸಿ. 401/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀಮತಿ ಹನುಮಕ್ಕ ಕೋಂ ಲೇಟ್ ಟಿ. ನಾರಾಯಣಪ್ಪ ಮತ್ತು ಇತರರು
12)	ಎಲ್.ಎ.ಸಿ. 412-414/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಶ್ರೀನಿವಾಸ ಬಿನ್ ಲೇಟ್ ಪಾಪಯ್ಯ ಮತ್ತು ಇತರರು
13)	ಎಲ್.ಎ.ಸಿ. 432/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀಮತಿ ಫೀಲೋಮಿನಮ್ಮ ಕೋಂ ಲೇಟ್ ಯಾಗಪ್ಪ (ಜೋಯಪ್ಪ) ಮತ್ತು ಇತರರು
14)	ಎಲ್.ಎ.ಸಿ. 457/85-86, ದಿನಾಂಕ 25.03.2009	ಶ್ರೀ ಪ್ರಕಾಶ ಬಿನ್ ಮುನಿಯಲ್ಲಪ್ಪ ಮತ್ತು ಇತರರು

ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿ, ಬೆಂಗಳೂರು ಹಾಗೂ ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ, ಬೆಂಗಳೂರು, ಇವರು ಈ ಸಂಬಂಧ ಮುಂದಿನ ಅಗತ್ಯ ಕ್ರಮ ಕೈಗೊಳ್ಳುವಂತೆ ಆದೇಶಿಸಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಹಾಗೂ ಅವರ ಹೆಸರಿನಲ್ಲಿ

Issued under RTI Act

(ಎಂ. ವೆಂಕಟೇಶಮೂರ್ತಿ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ಕಂದಾಯ ಇಲಾಖೆ
(ಭೂಸ್ವಾಧೀನ-2 ಮತ್ತು ಪುನರ್ವಸತಿ)

Attested on [illegible]

(M. VENKATESHA MURTHY)
Under Secretary to Government
Revenue Department

ಇವರಿಗೆ,
ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ, ಬೆಂಗಳೂರು.
ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು ನಗರ (ಜಿಲ್ಲೆ), ಬೆಂಗಳೂರು.
ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು.
ಸಂಬಂಧಪಟ್ಟ ಭೂಮಾಲೀಕರುಗಳಿಗೆ (ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು, ಇವರ ಮುಖಾಂತರ)
ಶಾಖಾ ರಕ್ಷಾ ಕಡತ

ಅನುಬಂಧ-1

ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ನಾಗವಾರ ಗ್ರಾಮದ ಹಲವಾರು ಸರ್ವೆ ನಂಬರ್‌ಗಳ ಜಮೀನುಗಳು ವೈಯಾಲಿಕಾವಲ್ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಕ್ಕೆ ಭೂಸ್ವಾಧೀನವಾಗಿದ್ದು, ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆ ಅಸಿಂಧುಗೊಂಡಿರುತ್ತದೆ. ನಂತರ ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಕಂಇ 134 ಭೂಸ್ವಾಬೆ 2007 (ಭಾಗ) ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 16-04-2010 ರ ಆದೇಶದಂತೆ ಕೆಳಕಂಡ ಸರ್ವೆ ನಂಬರ್‌ಗಳ ಭೂ ಮಾಲೀಕರಿಂದ ಭೂ ಪರಿಹಾರವನ್ನು ಹಿಂಪಡೆದು ಜಮೀನುಗಳ ಸುಬರ್ದು ವಹಿಸಿರುವ ವಿವರ.

ಕ್ರ.ಸಂ.	ಕಡತ ಸಂಖ್ಯೆ	ಭೂಮಾಲೀಕರ ಹೆಸರು	ಸರ್ವೆ ನಂ.	ವಿಸ್ತೀರ್ಣ (ಎ-ಗುಂ)	ಪರಿಹಾರ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ)
1.	ಎಲ್‌ಎಸಿ/448/85-86	ಶ್ರೀ ಮುನಿರತ್ನಂ ಬಿನ್ ಲೇಟ್ ಚಿನ್ನಣ್ಣ ಮತ್ತು ಇತರರು	78/6	1-33	1,70,820/-
2.	ಎಲ್‌ಎಸಿ/457/85-86	ಶ್ರೀ ಪ್ರಕಾಶ್ ಬಿನ್ ಮುನಿಯಲ್ಲಪ್ಪ	88/5	1-15	1,16,026/-
3.	ಎಲ್‌ಎಸಿ/445/85-86	ಶ್ರೀ ಕೃಷ್ಣಪ್ಪ ಬಿನ್ ಲೇಟ್ ರಾಮಯ್ಯ	78/3	0-32	66,522/-
4.	ಎಲ್‌ಎಸಿ/412-414/85-86	ಶ್ರೀ ಶ್ರೀನಿವಾಸ ಬಿನ್ ಲೇಟ್ ಪಾಪಯ್ಯ	35/3, 35/4	1-28	1,21,000/-
5.	ಎಲ್‌ಎಸಿ/458/85-86	ಶ್ರೀ ಆನಂದಮೂರ್ತಿ ಬಿನ್ ಲೇಟ್ ಕಾಳಪ್ಪ ಮತ್ತು ಇತರರು	86	4-20	3,41,026/-
6.	ಎಲ್‌ಎಸಿ/407/85-86	ಶ್ರೀಮತಿ ಮೇರಿ ಜಯಶ್ರೀ ಕೋಂ ಅಂತೋನಿಸ್ವಾಮಿ ಮತ್ತು ಇತರರು	33/1 35/9 49/3	7-19 0-28 6-36	17,63,022/-

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7.	ಎಲ್ಎಸಿ/441/85-86	ಶ್ರೀ ಲೇಟ್ ದೊಡ್ಡವೀರಪ್ಪನ ಮೊಮ್ಮಕ್ಕಳಾದ ವೈಕುಂಠೇಶ್ವರ ಅಲಿಯಾಸ್ ಮಣಿಕಂಠೇಶ್ವರ ಮತ್ತು ಇತರರು	77/6	1-06	87,617/-
8.	ಎಲ್ಎಸಿ/456/85-86	ಶ್ರೀ ದೇಶಿಕಾ ಅಚಾರ್ ಬಿನ್ ಲೇಟ್ ಹನುಮಂತಾಚಾರ್ ಮತ್ತು ಇತರರು	87	6-35	5,48,112/-
9.	ಎಲ್ಎಸಿ/447/85-86	ಶ್ರೀ ಕೆ.ಆಂಜನಪ್ಪ ಬಿನ್ ಕುಪ್ಪಣ್ಣ ಮತ್ತು ಇತರರು	78/5	1-20	1,35,000/-
10.	ಎಲ್ಎಸಿ/401/85-86	ಶ್ರೀಮತಿ ಹನುಮಕ್ಕ ಕೋಂ ಲೇಟ್ ಟಿ.ನಾರಾಯಣಪ್ಪ ಮತ್ತು ಇತರರು	24/8	0-21	53,117/-
11.	ಎಲ್ಎಸಿ/404/85-86	ಶ್ರೀಮತಿ ವಲಿಯಮ್ಮ ಕೋಂ ಲೇಟ್ ನಾರಾಯಣ ಸ್ವಾಮಿ ಮತ್ತು ಇತರರು	26/2	1-33	1,70,820/-
12.	ಎಲ್ಎಸಿ/409/85-86	ಶ್ರೀಮತಿ ವೆಂಕಟಮ್ಮ ಕೋಂ ಕೃಷ್ಣಪ್ಪ ಬಿನ್ ಲೇಟ್ ಅಪ್ಪಜಪ್ಪ ಮತ್ತು ಇತರರು	34/1	1-08	98,326/-
13.	ಎಲ್ಎಸಿ/398/85-86	ಶ್ರೀಮತಿ ರಾಜೇಶ್ವರಮ್ಮ ಕೋಂ ಲೇಟ್ ರಾಜಣ್ಣ ಬಿನ್ ಲೇಟ್ ಡಿ.ಚಂದ್ರಪ್ಪ ಮತ್ತು ಇತರರು	24/6	1-26	1,30,434/-
14.	ಎಲ್ಎಸಿ/432/85-86	ಶ್ರೀಮತಿ ಫೀಲೋಮಿನಮ್ಮ ಕೋಂ ಲೇಟ್ ಯಾಗಪ್ಪ (ಜೋಯಪ್ಪ) ಮತ್ತು ಇತರರು	51/2	0-39	89,585/-
		ಒಟ್ಟು		40-39 ಎ/ಗುಂ	

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CASE NO.:
Appeal (civil) 2086-2087 of 2004

PETITIONER:
The Vyalikaval House Building Co-Op.Society by its Secretary

RESPONDENT:
V.Chandrappa & Ors

DATE OF JUDGMENT: 02/02/2007

BENCH:
G.P. Mathur & A.K. Mathur

JUDGMENT:

J U D G M E N T

A.K. MATHUR, J.

These appeals are directed against the order passed by the Division Bench of the Karnataka High Court at Bangalore in Writ Appeal No.2294 of 1999 dated 17.1.2000 whereby the Division Bench of the High Court has set aside the order dated 11.11.1998 in Writ Petition No.30622 of 1998 passed by learned Single Judge for the reasons mentioned in Writ Appeal No.2188 of 1998 disposed of by the Division Bench of the High Court on 17.1.2000 and the order dated 22.3.2002 passed by the Division Bench in the Review Petition No.156 of 2000 in W.A.No.2294 of 1999.

This case has a chequered history, therefore, in order to deal with it, it will be necessary to refer to certain facts. A notification was issued on 22.12.1984 under Section 4 of the Land Acquisition Act, 1894 (hereinafter to be referred to as 'the Act') for acquiring 176 acres and 5 guntas of land in Nagavara village of Bangalore North Taluk. Declaration under Section 6 of the Act was issued on 21.2.1986 and the award was passed on the basis of the aforesaid notification on 16.11.1987. It was alleged that the possession of the land was taken on different dates up to the year 1992. It was alleged that possession of 31 acres and 21 guntas of land including an area measuring 1 acre and 25 guntas situated in Survey No.78/4 of Nagavara village was taken on 6.8.1988. Aggrieved against the aforesaid notification and the award private petitioners filed writ petition assailing the validity thereof on variety of grounds. It was alleged that this land measuring 8 acres and 2 guntas was owned jointly by a family comprising 5 brothers, namely; Pattadi Haumanthappa, Pattadi Venkateshappa, Pattadi Nannappa, Pattadi Lakshmaiah and Pattadi Nagappa, all deceased and survived by their legal heirs, who filed the writ petition. The main grievance of these petitioners was that this notification was very adversely commented by the Karnataka High Court in the case of Narayana Reddy. V. State of Karnataka [ILR 1991 Kar. 2248] and the decision of the Division Bench of the Karnataka High Court in Writ Appeal Nos.2336-2343 of 1997 and connected matters which were disposed of on 5.3.1998. In that judgment it was held that the whole acquisition proceedings stand vitiated on account of fraud, the appellant Society was also found to be not bonafide housing society, therefore, on the basis of the same reasoning the present notification was also challenged and it was urged that the impugned notification also suffered from same vice of mala

fide, therefore, it should be quashed. It was alleged that the delay in approaching the Court was irrelevant since the validity of the same notification in which other lands were acquired along with the present land has been found to be void.

This writ petition was contested by the appellant-society as respondent and it was alleged that it was hopelessly barred by time being delayed by 14 years and it was also submitted that the writ petitioners had participated in the inquiry under section 5A of the Act and have also received substantial amount from the appellant-society pursuant to the agreement executed in their favour. Learned Single Judge dismissed the writ petition on the ground of being hopelessly barred by time and the writ petitioners participated in the proceedings therefore they have acquiesced in the matter. Aggrieved against this order passed by learned Single Judge, a writ appeal was filed by the respondents which came to be allowed by the Division Bench for the reasons mentioned in another writ appeal decided by the same Division Bench headed by the Chief Justice of the High Court on 17.1.2000. In that writ appeal the Division Bench held that the entire acquisition on behalf of the appellant-society was actuated with fraud as held in Narayana Reddy v. State of Karnataka [ILR 1991 Kar.2248]. In that case it was held as follows :

" As seen from the findings of G.V.K.Rao Inquiry Report, in respect of five respondent societies and the report of the Joint Registrar in respect of Vualikaval House Building Co-operative Society, these Societies had indulged in enrolling large number of members illegally inclusive of ineligible members and had also indulged in enrolling large number of bogus members. The only inference that is possible from this is that the office bearers of the societies had entered into unholy alliance with the respective agents for the purpose of making money, as submitted for the petitioners otherwise, there is no reason as to why such an Agreement should have been brought about by the office bearers of the Society and the agents. Unless these persons had the intention of making huge profits as alleged by the petitioners, they would not have indulged in enrolment of ineligible and bogus members. The circumstance that without considering all these relevant materials the Government had accorded its approval, is sufficient to hold that the agents had prevailed upon the Government to take a decision to acquire the lands without going into all those relevant facts. The irresistible inference flowing from the facts and circumstances of these cases is, whereas the poser conferred under the Land Acquisition Act is for acquiring lands for carrying out housing scheme by a housing society, in each of the cases the acquisition of lands is not for a bona fide housing scheme but is substantially for the purpose of enabling the concerned office bearers of respondent-societies and their agents to indulge in sale of sites in the guise of allotment of sites to the Members/ Associate members of the society to

make money as alleged by the petitioners and therefore it is a clear case of colourable exercise of power. Thus the decision of the Government to ac .ire the lands suffers from legal mala fides and therefore the impugned Notifications are liable to be struck down."

(20)

In view of aforesaid observation, their Lordships of Division Bench held that since the acquisition was colourale exercise of the power, therefore, delay cannot be a good ground to dismiss the writ petition. The said judgment of the Division Bench of the High Court of Karnataka was affirmed by this Court in Special Leave Petition Nos.(c)..CC 525-532 of 1999 and Special Leave Petition Nos.(c) ..CC 504-522 of 1999 decided on 14.7.1999 and it was held that the appellant-society is a bogus house building society and accordingly, the order passed by the learned Single Judge was set aside by Division Bench. Against the order of the Division Bench passed in Writ Appeal No.2294 of 1999 a review petition was filed which was dismissed on 22.3.2002. Hence both these appeals.

Learned counsel for the appellant urged before us that the view taken by the Division Bench of the High Court is not correct as the Division Bench should not have condoned the inordinate delay of 14 years and secondly, learned counsel further submitted that the respondents herein being the beneficiary had entered into an agreement of sale and had accepted the whole amount not to file objections under Section 5A of the Act for acquiring the aforesaid land. Learned counsel for the appellant has emphasized that the Division Bench has gone wrong in setting aside the order of the learned Single Judge as the learned Single Judge has discussed the factual controversy in greater detail.

As against this, learned counsel for the respondents submitted that there was not one judgment but there are number of judgments in which such acquisition of land has been set aside. Learned counsel for the respondents invited our attention to two decisions of this Court in the case of H.M.T. House Building Co-operative Society v. Syed Khader & Ors. [(1995) 2 SCC 677] and H.M.T. House Building Co-operative Society v. M.Venkatswamappa & Ors. etc. etc. [(1995) 3 SCC 128] in which similar societies filed Special Leave Petitions and this Court affirmed the order of the Karnataka High Court and held that the whole exercise of acquiring the land by various societies including the present appellant-society was actuated with mala fide and quashed all acquisitions. In this connection, a reference may be made to H.M.T.House Building Co-operative Soceity's case (supra) wherein the similar question was raised by the Co-operative Society like the appellant herein and in that context their Lordships framed the question in paragraph 18 of the judgment which heads as follows :

" 18. Now the question which is to be answered is as to whether in view of the definition of "public purpose" introduced by the aforesaid Amending Act 68 of 1984 in Section 3(f)(vi), is it open to the appropriate Government to acquire land for cooperative society for housing scheme without making proper enquiry about the members of the society and without putting such housing cooperative society to term in respect of nature of construction, the

area to be allotted to the members and restrictions on transfer thereof ?"

This question was answered by their Lordships in paragraphs 21 & 22 which reads thus:

" \005That is why the framers of the Act have required the appropriate Government to grant prior approval of any housing scheme presented by any cooperative society before the lands are acquired treating such requirement and acquisition for public purpose. It is incumbent on the part of the appropriate Government while granting approval to examine different aspects of the matter so that it may serve the public interest and not the interest of few who can as well afford to acquire such lands by negotiation in open market. According to us, the State Government has not granted the prior approval in terms of Section 3(f)(vi) of the Act to the housing scheme in question. The power under Section 4(1) and 6(1) of the Act has been exercised for extraneous consideration and at the instance of the persons who had no role in the decision-making process \026 whether the acquisition of the lands in question shall be for a public purpose. This itself is enough to vitiate the whole acquisition proceeding and render the same invalid."

22. In the present case there has been contravention of Section 3(f) (vi) of the Act inasmuch as there was no prior approval of the State Government as required by the said section before steps for acquisition of the lands were taken. The report of Shri G.K.V.Rao points out as to how the appellant-Society admitted large number of persons as members who cannot be held to be genuine members, the sole object being to transfer the lands acquired for "public purpose", to outsiders as part of commercial venture, undertaken by the office-bearer of the appellant-Society. We are in agreement wit the finding of the High Court that the statutory notifications issued under Sections 4(1) and 6(1) of the Act have been issued due to the role played by M/s. S.R.Constructions, Respondent No.11. On the materials on record, the High Court was justified in coming to the conclusion that the proceedings for acquisition of the lands had not been initiated because the State Government was satisfied about the existence of the public purpose but at the instance of agent who had collected more than a crore of rupees for getting the lands acquired by the State Government."

Similarly, in H.M.T.House Building Cooperative Society [(1995) 3 SCC 128] in which the present appellant was one of the societies, which challenged the order of the Division Bench of the High Court of Karnataka, their Lordships dismissed the Special Leave Petition following the judgment in H.M.T. House Building Cooperative Society (supra). In paragraph 3 of the judgment while dealing with the facts of this society their Lordships observed that this society had advertised inviting persons who want to have mansions in the

city of Bangalore and had also given the names and addresses of the representative at Dubai. It was held that on the basis of the aforesaid material the High Court has rightly come to the concl ;ion that the society itself was not bona fide house building society and accordingly, the order passed by the High Court setting aside the acquisition of the land was upheld by this Court and the SLP was dismissed. Paragraph 3 reads as follows :

" 3. Lands on basis of the notifications issued under Sections 4(1) and 6(1) of the Land Acquisition Act, had been acquired for the petitioner-House Building Society, treating the said acquisition to be for a public purpose. No order of the State Government as required by Section 3(f)(vi) granting prior approval for acquisition of the lands in question for the housing scheme of the petitioner-society has been produced. The petitioner-Society had also entered into an agreement with the contractor more or less on the same terms and conditions as was in the case of HMT House Building Cooperative Society, assuring that the lands in question shall be acquired on basis of the notification issued by the State Government under Sections 4(1) and 6(1) of the Act. The High Court in its impugned judgment has given details of the allegations made against the petitioner-Society regarding collection of huge amounts from different applicants for site who were not even members of the Society and how the Society had entered into an agreement with agents, who with their influence have got the lands acquired. The High Court has also referred to an advertisement issued by the petitioner-Society inviting persons who want to have mansions in the city of Bangalore. It also gave the name and address of a representative at Dubai. On basis of the aforesaid materials, the High Court has come to the conclusion that the society itself was not a bona fide House Building Society. The High Court has also recorded a finding that the notifications under Sections 4(1) and 6(1) of the Act had been issued at the instance of the agents appointed by the petitioner-Society, to whom huge amounts had been paid for influencing the Government to issue the aforesaid notifications. Mr. Ramaswamy, appearing for the petitioner-Society purported to distinguish this case on facts from the case of HMT House Building Cooperative Society. But according to us, the facts of the present case are similar to the case of HMT House Building Cooperative Society and there is no scope to interfere with the order of the High Court, quashing the notifications under Sections 4(1) and 6(1). Accordingly, the special leave petitions filed on behalf of the petitioner-Society are dismissed. No costs."

Learned counsel for the respondents has also invited our attention that same notification was set aside by the High Court and the said order of the High Court was also upheld by this Court by dismissing the S.L.P.(c) No.6196 of 1998 on 7.4.1998 and S.L.P.(c) ..CC 495-a498 of 1999 on 14.7.1999

concerning the very same appellant society. In this background, when the acquisition has been found to be totally mala fide and not for bona fide purpose, the ground of delay and acquiescence in the present case has no substance. Learned counsel for the appellant tried to persuade us that as the amount in question has been accepted by the respondents, it is not open for them now to wriggle out from that agreement. It may be that the appellant might have tried to settle out the acquisition but when the whole acquisition emanates from the aforesaid tainted notification any settlement on the basis of that notification cannot be validated. The fact remains that when the basic notification under which the present land is sought to be acquired stood vitiated then whatever money that the appellant has paid, is at its own risk. Once the notification goes no benefit could be derived by the appellant. We are satisfied that issue of notification was mala fide and it was not for public purpose, as has been observed by this Court, nothing turns on the question of delay and acquiescence. Learned Counsel for respondents raised other pleas like decree for partition was granted among brothers & they were not made parties, we are not going into those questions when we are satisfied that when acquisition stand vitiated on account of mala fide, nothing remains further.

In the light of the discussions made above, the view taken by the Division Bench of the High Court of Karnataka in the impugned judgment is correct and we uphold the same and dismiss both the appeals. No order as to costs.

(16)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1930 OF 2012

B. Anjanappa & Ors. .. Appellant(s)

Versus

Vyalikaval House Building Co-Operative Society Ltd. & Ors. .. Respondent(s)

WITH
CIVIL APPEAL NO. 1931 of 2012
CIVIL APPEAL NO. 1932 of 2012
CONTEMPT PETITION (CIVIL) NO D. 27836 OF 2012
IN
CIVIL APPEAL NOS. 1930-1932 OF 2012
AND
CONTEMPT PETITION (CIVIL) NO D.27891 OF 2012
IN
CIVIL APPEAL NOS. 2086-2087 OF 2004

O R D E R

CIVIL APPEAL NOS.1930, 1931 AND 1932 OF 2012

1. These appeals are directed against the judgment and order passed by the Division Bench of the High Court of Karnataka at Bangalore in Writ Appeal No. 2532 of

2004 and connected matters, dated 06.10.2005. By the impugned judgment and order, the Division Bench of the High Court has confirmed the judgment and order passed by the learned Single Judge in Writ Petition No. 27205 of 2001, dated 09.03.2004.

2. The acquiring authority had acquired an extent of 165 acres 30 guntas of land situated at Nagavara village for the benefit of a society named Vyalikaval House Building Co-operative Society Limited (for short, 'the society'). Some of the land owners who had an interest in about 52 acres and 17 guntas of land had approached the High Court, inter alia, questioning

the notifications issued by the State Government under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act'). The learned Single Judge had allowed the aforesaid Writ Petition and quashed the notifications issued by the State Government for acquiring land to the extent of 52 acres and 17 guntas. It is apropos to mention here that the learned Judge had not quashed the entire notification

but only that part of the notification wherein the land owners had questioned the acquisition of lands to the extent of 52 acres and 17 guntas. The order so passed was confirmed by the Division Bench of the High Court.

3. The Society had approached the State Government, inter alia, contending that in order to complete the project they would require the lands that were notified earlier and quashed later by the Court and accordingly requested the State Government to issue fresh notifications under Sections 4 and 6 of the Act to acquire the aforesaid extent of land so as to facilitate completion of the project. Pursuant to the said request, the State Government had issued fresh notifications under Section 4 of the Act, dated 28.07.1999. For the reasons best known, the State Government thought it fit to withdraw the aforesaid notification by order dated 04.06.2001.

4. Aggrieved by the action of the State Government, the

Society had approached the learned Single Judge in Writ Petition No. 27205 of 2001. The learned Single Judge had allowed the Writ Petition and directed the State Government to proceed with the acquisition of

lands pertaining to 52 acres and 17 guntas and complete the acquisition proceedings by issuing notification under Section 6 of the Act and other requirements under the Act by judgment dated 09.03.2004.

5. Aggrieved by the direction so issued by the learned Single Judge, the land owners had approached the Division Bench of the High Court. The Division Bench had dismissed the appeal and thereby confirmed the judgment and order passed by the learned Single Judge.

6. Being aggrieved by the judgment and order so passed by the Division Bench of the High Court the land owners were before us in Civil Appeal No. 1930 of 2012 and connected matters. By order dated

07.02.2012, reported as B. Anjanappa and Ors. vs. Vyalikaval House Building Cooperative Society Limited and Ors.,(2012) 10 SCC 184, this Court while disposing of these Civil Appeals had issued the following directions to the respondent No.1 herein- the society, which read as under:

".....

26. In the result, the appeals are allowed. The impugned judgment as also the order passed by the learned Single Judge are set aside and the writ petition filed by Respondent No.1 is dismissed.

27. If Respondent No. 1 is in possession of the acquired land or any portion thereof, then the same shall be returned to the land owners concerned within a period of two months from today. This direction shall apply not only qua the appellants but other land owners who may not have filed writ appeals or the special leave petitions, may be due to poverty, illiteracy or ignorance. However, it is made clear that the abovementioned directions shall not apply to such of the land owners who have withdrawn the special leave

(17)

petitions. If any of the land owners has received compensation from the State, then the latter shall be free to recover the same in accordance with law.

28. Respondent No. 1 is directed to submit a report to this Court within three

months showing compliance with the aforementioned directions. The Registry shall then list the matter before the Bench."

7. Pursuant to the aforesaid directions, the respondent No.1-Society has filed its 'compliance report'.

8. In reply to the said report, the appellants in these civil appeals have filed their detailed objections.

9. Smt. Kiran Suri, learned senior counsel appearing for the appellants would submit that the respondents have not complied with the orders and directions issued by this Court.

10. Per contra, Dr. A.M. Singhvi, learned senior counsel appearing for the respondent No.1-Society would strongly object to the contention so asserted by the learned senior counsel for the appellants and submit that they have expressed their inability to comply with the orders and directions issued by this Court in view of the fact that the society is not in possession of the land/(s) or plots.

11. After hearing learned senior counsel for the parties to the lis, firstly, it appears to us that there is a serious dispute with regard to the extent of land/(s) which is the subject matter in these appeals. Therefore, we intend to clarify that this Court in the case of B. Anjanappa (supra) has confined the land/(s) in dispute to 52 acres and 17 guntas only.

(12)

This fact is also endorsed by the State Government in i ; proceedings dated July, 2012. The annexure to the Government Order clearly identifies the survey numbers and corresponding extent of lands which are the subject matter of these appeals. We confirm the same.

12. Secondly, the submissions canvassed by the learned senior counsel are only disputed facts which we are not inclined to entertain and enquire in these proceedings. Therefore, we only take on record the 'compliance report' filed by the respondent No.1-society and grant liberty to the appellants, if they

so desire, to agitate their grievance, if any, before an appropriate forum.

13. We clarify that if such an application/petition/appeal is filed, the concerned Court/authority will consider and decide the same in accordance with law.

14. No further orders are required in these appeals.

15. Before parting with the case, we record the statement made by Smt. Suri that insofar as the remaining extent of the lands acquired, the same has been handed over to the land owners way back in the year 1999. The same is disputed by the other side. We do not intend to deliberate on this issue since the same was not an issue while this Court considered these appeals.

I.A. NO. 8 in CIVIL APPEAL No.1930 of 2012

In view of order passed in Civil appeal Nos.1930, 1931 and 1932 of 2012, Shri Guru Krishna Kumar, learned

senior counsel appearing for the applicant(s) seeks permission of the Court to withdraw this interlocutory application.

Permission sought for is granted.

I.A. No. 8 is disposed of as withdrawn.

CONTEMPT PETITION (CIVIL) NO D. 27836 OF 2012
IN CIVIL APPEAL NOS. 1930-1932 OF 2012
CONTEMPT PETITION (CIVIL) NO D. 27891 OF 2012
IN CIVIL APPEAL NOS. 2086-2087 OF 2004

Smt. Kiran Suri, learned senior counsel appearing for the appellants submits that in view of the orders passed in Civil Appeal Nos.1930, 1931 and 1932 of 2012, she be permitted to withdraw these contempt petitions.

Permission sought for is granted.

The contempt petitions are disposed of as withdrawn.

..............................J.
[H.L. DATTU]

..............................J.
[SUDHANSU JYOTI MUKHOPADHAYA]

NEW DELHI,
APRIL 24, 2014

ITEM NO.302 COURT NO.3 SECTION IVA

S U P R E M E COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1930 OF 2012

B. ANJANAPPA & ORS. Appellant (s)

VERSUS

VYALIKAVAL HOUSE BDG.CO-OP.SOC. LTD&ORS. Respondent(s)

(With appln(s) for intervention)

WITH Civil Appeal NO. 1931 of 2012

Civil Appeal NO. 1932 of 2012

CONTEMPT PETITION (CIVIL) NO. D27836 OF 2012 IN C.A. NOS.

1930-1932 OF 2012

CONTEMPT PETITION (CIVIL) NO. D27891 OF 2012 IN C.A. NOS. 2086-)87 OF 2004

Date: 24/04/2014 These appeals/petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Appellant(s) Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Dr.(Mrs.) Vipin Gupta, Adv.
Ms. Ritika Gambir, Adv.

Mr. Rajesh Mahale, Adv.

For Respondent(s) Mr. A.M. Singhvi, Sr. Adv.
Mr. S.N. Bhat, Adv.
Mr. K. Suman, Adv.

Mr. V.N. Raghupathy ,Adv

Mr. T.V. Ratnam,Adv
Ms. Rajni K. Prasad, Adv.
Ms. Sunita Rani Singh, Adv.

Mr. Dharam Bir Raj Vohra, Adv.

For Applicant(s) In I.A. No. 8 Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Nishanth Patil, Adv.
Mr. Rohit Sharma, Adv.
Mr. Dipiyan, Adv.
Mr. B. Subrahmanya Prasad, Adv.
Mr. Amarjeet Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

No further orders are required in C.A. Nos. 1930, 1931 and 1932 of 2012.

I.A. No. 8 is disposed of as withdrawn in view of order passed in the afore-mentioned appeals.

In Contempt Petitions

The contempt petitions are disposed of as withdrawn in terms of the signed order.

[Charanjeet Kaur]
Court Master

[Vinod Kulvi]
Asstt. Registrar

[Signed order is placed on the file]